

Notice of Allowability

Application No.

09/531,375

Examiner

A R Salimi

Applicant(s)

HALLER ET AL.

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1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/13/2003.
2. ☒ The allowed claim(s) is/are 26 and 36-45.
3. ☒ The drawings filed on 07 May 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Jacqueline Benn on 1/27/04.

The application has been amended as follows:

Canceled claims 27-35 without prejudice or disclaimer. Added new claims 37-45.

37. (New) A chimeric parainfluenza virus comprising
 - (i) nucleotide sequences of Kansas-strain bovine parainfluenza virus type 3 genome comprising nucleotides 1-5041 and nucleotides 8529-15,456 of the genome of Kansas strain bovine parainfluenza virus type 3; and
 - (ii) one or more sequences derived from RSV, PIV, New Castle Disease virus, Sendai virus, Infectious Laryngotracheitis virus or influenza.
38. (New) A chimeric parainfluenza virus comprising
 - (i) nucleotide sequences of Kansas-strain bovine parainfluenza virus type 3 genome comprising nucleotides 1-5041 of the genome of Kansas-strain bovine parainfluenza virus type 3; and
 - (ii) one or more sequences derived from RSV, PIV, New Castle Disease virus, Sendai virus, Infectious Laryngotracheitis virus or influenza.
39. (New) A chimeric parainfluenza virus comprising:
 - (i) nucleotide sequences of Kansas-strain bovine parainfluenza virus type 3 genome; and
 - (ii) one or more sequences derived from RSV, PIV, New Castle Disease virus, Sendai virus, Infectious Laryngotracheitis virus or influenza, and wherein said

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sequences have been added at a nucleotide position of Kansas-strain bovine parainfluenza virus type 3 selected from the group consisting of nucleotide position 5041, the HN gene, and nucleotide position 8529.

40. (New) A chimeric parainfluenza virus comprising:
(i) nucleotide sequences of Kansas-strain bovine parainfluenza virus type 3 genome comprising nucleotides 8,529-15,456 of the genome of Kansas-strain bovine parainfluenza virus type 3; and
(ii) one or more sequences derived from RSV, PIV, New Castle Disease virus, Sendai virus, Infectious Laryngotracheitis virus or influenza..
41. (New) The chimeric parainfluenza virus of claim 37, 38, 39 or 40, wherein the one or more sequences are derived from RSV, PIV, or influenza.
42. (New) The chimeric parainfluenza virus of claim 37, 38, 39 or 40, wherein the one or more sequences are derived from human RSV, human PIV, or human influenza.
43. (New) The chimeric parainfluenza virus of claim 37, 38, 39 or 40, wherein the one or more sequences are derived from both human RSV and human PIV.
44. (New) The chimeric parainfluenza virus of claim 37, 38, 39 or 40, wherein the one or more sequences are the F and HN gene sequences of human PIV type 3.
45. (New) The chimeric parainfluenza virus of claim 37, 38, 39 or 40, wherein the one or more sequences are the F and HN gene sequences of human RSV.

Claims 26, 36-45 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. R. Salimi whose telephone number is (571) 272-0909. The examiner can normally be reached on Monday-Friday from 9:00 Am to 6:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027. The Official fax number is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

A. R. Salimi

1/29/2004

ALI R. SALIMI
PRIMARY EXAMINER